THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8725 of 2007

Dated:26.04.2007

Between:

Murla Kanaka Bhushanam.

... Petitioner

AND

Election Tribunal under the A.P.Panchayat Raj Act & Agency Divisional Officer, Rampachodavaram, East Godavari District, and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8725 of 2007

ORDER:

The petitioner successfully contested the election to the Office of the Sarpanch of Chavadikota Panchayat of Maredumilli Mandal in East Godavari District. The elections were held on 29.07.2006. The Office of the Sarpanch of the said Village was reserved for Scheduled Tribe (ST). The second respondent herein, who was unsuccessful in the election, filed E.P.No.24 of 2006 under Section 233 of the Andhra Pradesh Panchayat Raj Act, 1994, and Rules 2, 12, 13 and 15 of the Andhra Pradesh Panchayat Raj (Election Tribunal in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995, mainly on the ground that the petitioner does not belong to ST. After receiving the notice, the petitioner filed the instant Writ Petition seeking a writ of prohibition restraining the Election Tribunal, first respondent herein, from proceeding with the enquiry.

Learned Counsel for the petitioner submits that the Election Tribunal cannot decide or declare the community status of a person, as no such power is vested in it. Therefore, he submits that as the Election Petition involves the question of deciding the community status of the petitioner, the first respondent suffers from inherent lack of jurisdiction.

The submission of the learned Counsel for the petitioner cannot be accepted for two reasons. The relevant Election Rules require a candidate contesting for the Office reserved for Scheduled Castes/Scheduled Tribes/Backward Classes to produce a certificate

issued by the competent authority, namely, the Mandal Revenue Officer/Revenue Divisional Officer. Such certificate is issued under the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issuance of Community Certificates Act, 1993. The certificates, which were issued by the competent authority prior to coming into force of the said Act, are also treated to be valid under the Act. When once the certificate is issued and that is the basis, unless and until such certificate is cancelled, the person is entitled to claim the benefit under the certificate. In the given case, there can always be a ground that the issue itself is not valid for various reasons. The limited enquiry that is required to be done by the Election Tribunal in those cases is whether the certificate is validly issued enabling the candidate to contest the elections. In that view of the matter, the Election Tribunal cannot be said to suffer from inherent lack of jurisdiction.

The Writ Petition is accordingly dismissed. It shall, however, be open to the petitioner to raise all the grounds before the Election Tribunal. No costs.

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(**V.V.S.RAO, J**)

26.04.2007
vs